

PARTIES TO DISPUTE:  
(Brotherhood of Maintenance of Way Employees  
(The Burlington Northern Santa Fe Railroad

STATEMENT OF CLAIM:

1. The Carrier violated the Agreement when on June 3, 1998, the Carrier dismissed Mr. R. McCabe for allegedly violation of Section 6.2 and 12 of the Carrier's Policy on Use of Drugs and Alcohol, effective October 15, 1996, in connection with his alleged testing positive for alcohol on May 22, 1998, for the second time within a ten year period.
2. As a consequence of the Carrier's violation referred to above, Claimant's seniority shall be restored, he shall be paid for all wages lost and discipline shall be removed from his record.

FINDINGS

Upon the whole record and all the evidence, the Board finds that the parties herein are carrier and employee within the meaning of the Railway Labor Act, as amended. Further, the Board is duly constituted by Agreement, has jurisdiction of the Parties and of the subject matter, and the Parties to this dispute were given due notice of the hearing thereon.

The Carrier's Drug and Alcohol Policy clearly stipulates that:

"Those employees who have tested positive in the past ten (10) years would be subject to dismissal whenever they test positive a second time."

The parties have further agreed that:

"...an employee who is subject to dismissal under the aforementioned provision...shall be notified in writing by Certified Mail, Return Receipt requested, to the employee's last known address, copy to the General Chairman, of termination of his seniority and employment...."

The understanding further provides that if the Claimant disagrees with the Carrier's decision, a claim can be filed within 60 days of the date of the dismissal letter.

Obviously a claim was filed, but the results of Claimant's testing positive for alcohol on May 22, 1998, could not be overturned, and since Claimant's first positive test for a

prohibitive substance occurred April 9, 1997, Carrier's implementation of dismissal for a second positive test within a ten year period was in accordance with the letter of understanding. The discipline will not be disturbed.

AWARD

Claim denied.

ORDER

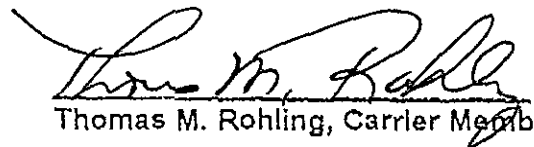
This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.



Robert L. Hicks, Chairman & Neutral Member



Rick B. Wehrli, Labor Member



Thomas M. Rohling, Carrier Member

Dated: 10/7/98